

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

DEANDRE SCOTT ESTELLE,

Petitioner-Defendant,

v.

**CIVIL ACTION NO. 5:15-CV-23
CRIM. ACTION NO. 5:12-CR-20-6
(BAILEY)**

UNITED STATES OF AMERICA,

Respondent-Plaintiff.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Civ. Doc. 9 / Crim. Doc. 1026]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Kaull filed his R&R on July 1, 2015, wherein he recommends this Court dismiss the 28 U.S.C. § 2255 petition with prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). After a brief extension, the petitioner filed his Objections [Civ. Doc. 11] on August 12, 2015.

The petitioner's Objections states: "Hence, petitioner simply express[es] objection to all the Magistrate's findings or recommendations in total; and further, seek to reinforce and affirmatively certify all original claims acknowledged by the Magistrate's R&R, and followed-up with traverse (also recognized by Magistrate's R&R). In other words, Petitioner completely object[s] to all the Magistrate's findings with relation to foregoing enumerated claims . . ." [Civ. Doc. 11]. Such a blanket objection does not warrant *de novo* review. "To the extent petitioner fails to point to a specific error in the R&R and simply makes conclusory objections, the Court need not conduct a *de novo* review. ***Smith v. Washington Mut. Bank FA***, 308 F.App'x 707, 708 (4th Cir. 2009) ('The court need not conduct *de novo* review . . . "when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations.'") (quoting ***Orpiano v. Johnson***, 687 F.2d 44, 47 (4th Cir. 1982))."
CabbagesTalk v. McFadden, 2015 WL 4077211 (D.S.C. July 1, 2015).

Therefore, upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Civ. Doc. 9 / Crim. Doc. 1026]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. The petitioner's Objections [**Civ. Doc. 11 / Crim. Doc. 1031**] are **OVERRULED**.

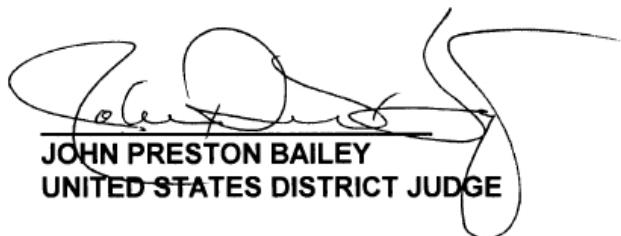
Accordingly, this Court **ORDERS** that the petition [Civ. Doc. 1 / Crim. Doc. 1009] be **DISMISSED WITH PREJUDICE**. This Court further **DIRECTS** the Clerk to enter judgment in favor of the respondent and to **STRIKE** this case from the active docket of this Court.

As a final matter, upon an independent review of the record, this Court hereby **DENIES** a certificate of appealability, finding that Mr. Estelle has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: August 24, 2015.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE